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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,035	11/02/2000	Haruo Oba	112857-265	6839

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EXAMINER

MICHALSKI, JUSTIN I

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/705,035	OBA ET AL.	
	Examiner	Art Unit	
	Justin Michalski	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 2-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 2, line 2, establishes the limitation “a portable transmission apparatus”. Figure 7 shows an audio-signal transmission apparatus (200). Page 12, line 23 through page 13, line 5 disclose a portable audio recording and playback apparatus 20. However, there is no disclosure in the specification to the transmission apparatus (Fig. 7, reference 200) being “portable” as claimed.

3. Claims 11 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 11, dependent on claim 1, establishes the limitation “the second electrode, the demodulating means, and the audible sound

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generating means are incorporated into a headphone". Claim 12 establishes the limitation "the second electrode is at least one ear pad on the headphone".

As in claim 1, disclosed in Figures 7 and 8 corresponding to page 12, line 23 through page 14 of the specification, there is a first electrode for outputting the generated audio modulated signal (201); a second electrode for receiving the audio modulated signal transferred through the first electrode and then through the body of the single user (Fig. 8, electrode, 39, corresponding to electrode 21 in Fig. 1), with a transmission path of the audio modulated signal not being capacitively coupled to ground; means for demodulating the audio modulated signal received by the second electrode (Fig. 8, demodulator 72), and downloading said demodulated signal into said audio listening apparatus for storage (Fig. 8, playback section 30); wherein said second electrode (in playback apparatus 20) is adapted to receive the audio modulated signal sent from an audio-signal transmission apparatus (200 through second electrode 201). Support for the limitation in claim 11, "the second electrode, the demodulating means, and the audible sound generating means are incorporated into a headphone" and in claim 12 "the second electrode is at least one ear pad on the headphone " cannot be found as the second electrode is incorporated in apparatus 20 of figure 7 rather than headphone 10 as claimed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes (US Patent 6,118,882) in view of Naruki (US Patent 4,450,495).

Regarding Claim 1, Naruki discloses a portable acoustic device capable of downloading and recording audio information through microphone jack 52 for storage on a cassette (12). Naruki does not disclose transmitting the signal for storage through the body. Haynes discloses a portable acoustic device comprising: means for generating an audio modulated signal modulated in a band in which a signal is transferred by using a human body of a single user (Col. 1, lines 34-40); a first electrode for outputting the generated audio modulated signal (24); a second electrode for receiving the audio modulated signal transferred through the first electrode and then through the body of the single user (36), with a transmission path of the audio modulated signal not being capacitively coupled to ground; means for demodulating the audio modulated signal received by the second electrode (Col. 1, lines 53-58); means for generating audible sound according to the demodulated signal (earphones of Fig. 1); wherein the second electrode is adapted to receive the audio modulated signal sent from an audio signal transmission apparatus (36). Haynes further discloses transmitting signals such as a microphone (Fig. 20) and data (Col. 9, lines 62-67) through the body without cables and connectors to avoid unsightly transmission leads (Col. 1, lines 25-29). Therefore it would have been obvious to one of ordinary skill in the art at the time

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the invention was made to download audio data to a portable acoustic device through the body in order to avoid the use of unsightly and burdensome leads.

Regarding Claim 10, Naruki discloses a portable acoustic device capable of downloading and recording audio information through microphone jack 52 for storage on a cassette (12). Naruki does not disclose transmitting the signal for storage through the body. Haynes discloses an electrode for receiving an audio modulated signal transferred through a human body of a user (Col. 1, lines 34-40, electrode 36); means for demodulating the audio modulated signal (Col. 1, lines 53-58); wherein a second electrode is adapted to receive the audio modulated signal sent from an audio-signal transmission apparatus (36). Haynes further discloses transmitting signals such as a microphone (Fig. 20) and data (Col. 9, lines 62-67) through the body without cables and connectors to avoid unsightly transmission leads (Col. 1, lines 25-29). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to download audio data to a portable acoustic device through the body in order to avoid the use of unsightly and burdensome leads.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Michalski whose telephone number is (571)272-7524. The examiner can normally be reached on M-F 7-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571)272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JIM


February 2, 2006


HUYEN LE
PRIMARY EXAMINER